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June 20, 2025

The Honorable Paul Atkins
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, D.C. 20549-1090

RE: File Number 4-855 Executive Compensation Disclosure Requirements

Dear Chair Atkins:

On June 26, 2025, the SEC will host a roundtable to discuss executive compensation disclosure requirements. Before the roundtable, we are providing comments on the list of potential questions outlined in your May 16th statement.

Farient Advisors LLC (Farient) is an independent executive compensation, performance, and governance consulting firm. We provide advice primarily to compensation committees of publicly traded companies. Each senior team member has decades of experience in executive compensation consulting and preparing and utilizing related disclosures. Additionally, Farient is a recognized expert in pay-for-performance alignment. In 2010, our CEO, Robin A. Ferracone, one of the signatories of this letter, published a book on this topic titled *Fair Pay, Fair Play: Aligning Executive Performance and Pay*. Marc Hodak, our partner and another signatory of this letter, has taught finance and corporate governance at New York University's Stern School of Business and Southern Methodist University's Cox School of Management. He has also published numerous articles in respected business and academic journals.

Farient is also a founding partner of the Global Governance and Executive Compensation (GECN) Group, which serves clients in more than 35 countries and provides us with insights into disclosure practices in many countries and regions worldwide.

As noted in your statement, disclosure requirements have expanded over time due to regulations, exchange listing requirements, and expanding expectations from investors and proxy advisors. While many of the disclosures are useful for investors' Say on Pay (SOP) voting decisions, it is our view that not all the disclosures are valuable for the investment community or the broader set of stakeholders and market participants that benefit from public disclosures.

Within this context, below we address the specific issues requested by the SEC.

Executive compensation decisions: setting compensation and making investment and voting decisions

1. *What is the process by which companies develop their executive compensation packages? What drives the development and decisions of compensation packages? What roles do the company's management, the company's compensation committee (or board of directors), and external advisors play in this development?*

   Compensation packages are developed through an interplay between the Board of Directors (specifically, the compensation committee), management, and the board's advisors. These packages are generally developed with a balanced focus on pay and performance alignment, competitiveness, and cost considerations. In our experience, compensation committees are conscientious in making these determinations. As compensation advisors, we provide substantive guidance and process on these decisions.

   Proxy advisors, who provide investors with "for" or "against" recommendations on how to vote their shares on proxy proposals for executive compensation programs and equity plans, also play a part in driving decision-making. While proxy advisor standards are not legal requirements, and votes on executive compensation programs are not binding, our experience suggests that these standards influence compensation decisions and disclosures.

2. *Current disclosure requirements seek to unpack these processes for investors. How can our rules be revised to better inform investors about the material aspects of how executive compensation decisions are made?*

   The current disclosure requirements provide sufficient flexibility for companies to describe the processes for developing their compensation programs and generally provide investors with adequate information on this process. We do not see the need for these rules to be prescriptive.

Executive compensation disclosure: past, present, and future

3. *What level of detail regarding executive compensation information is material to investors when making their investment and voting decisions? Is there any information currently required to be disclosed in response to Item 402 of Regulation S-K that is not material to investors or that could be streamlined to improve the disclosure for investors? How do companies' engagement with investors drive compensation decisions and compensation disclosures?*

Most of the required compensation tables in the proxy statement provide helpful information regarding the compensation cost and its alignment with performance. In particular:

- The Summary Compensation Table (SCT) provides the economic cost of the named executive officers to the company
- The Grants of Plan-Based Awards Table provides a detailed breakdown of figures disclosed in the SCT and represents the only standardized disclosure of threshold, target, and maximum payout factors achievable for plan-based incentive awards
- The Outstanding Equity Awards and Potential Payments Upon Termination Tables inform retention risk for each executive
- The Pay vs. Performance (PvP) Tables provide data relevant for determining whether the realizable value of an executive's compensation is aligned with performance
- The Option Exercise and Stock Vesting Table data, although already provided in Form 4 disclosures and reflected in the Beneficial Ownership Table to the extent the stock hasn't been sold, are also relevant to assessing realizable pay relative to performance

However, the benefit and usefulness of some required disclosures are less apparent and may not be worth the cost of preparing those disclosures, given how the disclosure rules are currently defined.

- The CEO Pay Ratio is not comparable among companies, limiting its usefulness to investors. Many factors influence a company's median employee pay and its CEO Pay Ratio. These factors include a company's industry, capital intensity, and geographic distribution of employees, making the measure an unreliable tool for assessing executive compensation or pay equity, as was ostensibly the intention. Additionally, the CEO Pay Ratio provides no information about attraction, retention, alignment, or distinct data on compensation costs. In practice, we rarely see this measure questioned, used, or referenced by proxy advisors or investors. Finally, it is costly for companies to produce this statistic. As a result, we suggest that the CEO Pay Ratio requirement be eliminated
- The inclusion of the change in accumulated pension in the SCT can distort the assessment of total pay since the change can significantly fluctuate year over year based on actuarial and interest rate assumptions and does not represent a view of the cost of executive compensation that can be added to other compensation costs described in the SCT. As a result, we suggest putting the accumulated pension value in the PvP table and placing the pension service cost, which is currently in the PvP disclosures, in the SCT. This change would make the PvP disclosures more effective in showing changes in an executive's realizable pay.

4. *The Commission substantially revised its executive compensation disclosure requirements in 2006 with requirements to provide, among other things, enhanced tabular disclosure of compensation amounts and a compensation discussion and analysis of the company's compensation practices. The rules were intended to give investors a clearer and more complete picture of the compensation earned by a company's executive officers. Have these disclosure requirements met these objectives? Do the required disclosures help investors to make informed investment and voting decisions? Given the complexity and length of these disclosures, are investors able to easily parse through the disclosure to identify the material information they need? In what ways could disclosure rules be revised to return to a simpler presentation and focus?*

   The inclusion of the grant value of options and other equity awards in the SCT mandated in 2006 is necessary to provide the total economic cost of compensation.

   The complexity and length of disclosures have grown in tandem with the complexity of the compensation programs they describe. Like investment strategies, investors can and do develop their own policies and methodologies for evaluating executive compensation. Similarly, like financial disclosures, some investors utilize certain executive compensation disclosures more than others. One suggestion for a simpler presentation would be to have a standardized 1- to 2-page presentation of all the pieces of a compensation program that most investors would want to know when assessing executive pay, including the company's:
   - Pay philosophy and objectives
   - Methodologies for determining target pay levels, designing pay plans, calibrating pay to performance, and determining actual award levels, including the use of peer group(s) and specific peer companies
   - STI Plan details (measures, weights, goals, payout leverage)
   - LTI vehicles, mix, and vesting provisions
   - LTI performance plan details (measures, weights, goals, leverage, cash vs. stock)
   - Equity burn rate and dilution

5. *The Dodd-Frank Act added several executive compensation-related requirements to the securities laws, including shareholder advisory voting on various aspects of executive compensation. What types of disclosure do investors find material in making these voting decisions? Are companies able to provide such disclosure cost-effectively? Do the current rules strike the right balance between eliciting material information and the costs to provide such information?*

As noted above, many investors use their own policies and methodologies to evaluate executive pay and make voting decisions. These varying policies influence which disclosures investors find material. Because issuers generally want to satisfy investors' varied needs for information, disclosures have become longer and more complex. We believe it would be beneficial to identify ways to reduce those costs for smaller issuers, as we have witnessed the benefit of staggered disclosures for Smaller Reporting Companies and for Emerging Growth Companies who often do not have the resources or experience to meet broad disclosure requirements.

6. *With the experience of almost 20 years of implementing the 2006 rule amendments, how can the Commission address challenges that either companies or investors have encountered with executive compensation rules and the resulting disclosures in a cost-effective and efficient manner while continuing to provide material compensation information for investors? For example, are there requirements that are difficult or costly to comply with and that do not elicit material information for investors? Are there ways that we can reduce the cost or otherwise streamline the compensation information required by the rules?*

   The requirement that the CD&A be filed instead of furnished while requiring fulsome "plain English" disclosures create a contradictory mandate. As compensation advisors, we have promoted the CD&A as a vehicle for discussing all relevant aspects of executive compensation to investors. However, the filing requirement means that lawyers are involved in creating and publishing the CD&A, which sometimes leads to more expansive disclosures to reduce reporting risks.

7. *The Commission recently adopted rules implementing the requirements of Dodd-Frank related to pay-versus-performance and clawbacks. Now that companies have implemented the new rules, are there any lessons we can learn from their implementation? Can these rules be improved? If so, how? For example, which requirements of these rules are the most difficult to comply with, and how could we reduce those burdens while continuing to provide investors with material information and satisfy these statutory mandates?*

   Implementing the clawback rule generally worked more smoothly than the PvP disclosure rule. The complexities of the PvP methodology and the need for issuers to work with service providers to value equity in a short period were burdensome in the first year of implementation. One lesson may be to provide companies with sufficient lead time to comply with new rules, especially if such rules require additional calculations and/or the assistance of outside advisors.

At this point, the clawback and PvP disclosure rules do not appear to be excessively burdensome; however, there may be opportunities to reduce compliance costs, which could be especially beneficial for smaller issuers.

8. *Since adoption of the pay-versus performance rules, I have continued to hear concerns regarding the rule's definition of "compensation actually paid" (CAP). What has been companies' experience in calculating CAP and what has been investors' experience in using the information to make investment and voting decisions?*

In a 2015 comment letter, we critiqued the preliminary Pay versus Performance (PvP) definition. We suggested an alternative definition incorporating realized and realizable pay, which reflects the change in company-derived wealth for the executive from one year to the next.

In 2022, the Commission adopted a Compensation Actually Paid (CAP) definition that substantially matched our proposed definition. Companies have invested to calculate CAP, and the incremental cost of updating the figures from this point forward is relatively modest. While the term "compensation actually paid" is unfortunate since it implies not only realized pay but also realizable pay, the CAP figures are uniquely useful for analysis of pay-for-performance alignment, which is a key objective for investors. Farient tracks PvP data on our website, and our preliminary research reveals surprising sources of misalignment that cannot be determined with any other disclosed data.

The "alignment" assessments currently provided by proxy advisors utilize total pay as disclosed in the SCT compared to total shareholder return. Since the grant date value of equity is shown in the SCT, proxy advisors analyze the value of equity grants before performance occurs rather than after performance has occurred. As a result, the SCT data cannot be used to assess pay-and-performance alignment.

There are many legitimate reasons for any given executive to have relatively higher or lower target total pay (e.g., experience, tenure, past performance). Still, target pay is not expected to be sensitive to performance. The effect of proxy advisor assessments is to penalize above-median target pay in a year where performance happens to be below median, even though the same target compensation might be deemed acceptable in years of strong performance. That is why Say on Pay, based on these "alignment" assessments, is commonly called "Say on Performance."

CAP presents a potential solution to these deficiencies. CAP has not been integrated into proxy advisor standards due to their historical emphasis on cost considerations. Farient is addressing this issue through research and dialogues with investors, which have yielded positive results thus far.

With the machinery of calculating CAP now in place and the need for a good alignment measure, it would be a step backwards to change the definition or remove the data, which is relatively easy to update going forward.

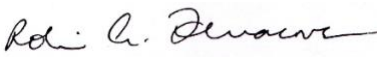
Instead, we propose eliminating the requirement for a narrative or graphical explanation of the relationship between CAP and performance measures beyond TSR. We have identified numerous instances where the alignment between GAAP net income and CAP is unclear due to accounting distortions. The PvP alignment discussion could be simplified for both issuers and investors if companies were allowed to focus only on TSR if desired.

9. *What has been companies' experience in applying the two-part analysis articulated by the Commission in 2006 with respect to evaluating whether perquisites for executive officers must be disclosed? How do disclosure requirements resulting from the test and whether a cost constitutes a perquisite affect companies' decisions on whether to provide a perquisite? For example, how has the application of the analysis affected evaluations relating to the costs of security for executive officers? Are there types of perquisites that have been particularly difficult to analyze? How do investors use information regarding perquisites in making investment and voting decisions?*

We have not generally seen companies determine whether to provide a perquisite solely based on disclosure considerations. We believe including perquisite costs in the SCT disclosure as currently defined allows investors to better assess an executive's total pay package, and we are supportive of maintaining the current rule.

In closing, we appreciate the opportunity to comment on executive compensation disclosures. Please let us know how we can be helpful in your efforts going forward.

Sincerely,



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